THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 25853 of 2006

Dated: 25.07.2007

Between:

K. Bagaiah, S/o Ramaiah, E-252821, Driver,
Zaheerabad Depot, R/o Zaheerabad, Medak Dist.

..... PETITIONER

And

The APSRTC, rep. by its Vice Chairman and
Managing Director, Musheerabad, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 25853 of 2006

Order:

The petitioner was appointed as Driver in the respondent-Corporation in the year 1989. While working as such, the Medical Officer, APSRTC Dispensary, Tarnaka, Hyderabad, declared the petitioner medically unfit to hold the post of A-1 Driver due to tremor of both hands and legs. Subsequently, as no alternative employment was provided to him by the respondents, the petitioner approached this Court and filed W.P. No.15706 of 2006, and this Court, by order dated 28.07.2006, disposed of the said writ petition with a direction to the petitioner to make a representation to the respondents seeking alternative employment in view of his medical unfitness, and on filing such representation, the respondents were directed to consider the same and pass appropriate orders thereon. In pursuance of the said directions, the petitioner made a representation to the respondents under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, seeking alternative employment. Thereafter, the

3rd respondent passed the impugned order dated 29.11.2006 stating that the application of the petitioner has been registered at Sl. No.4 in the Medically Unfit Drivers Register for providing alternative employment as Shramik under 10% quota provided for medically unfit drivers and his case can be considered as and when vacancy arises. Questioning the said action of the respondents in not providing him alternative employment and keeping him at Sl. No.4 under the category of medically unfit drivers, the petitioner filed the present writ petition.

A counter affidavit is filed by the respondents. Except denying the allegations of the petitioner, the respondents have not stated any reason as to why the petitioner was not provided with alternative employment. It is only stated in the counter affidavit that the petitioner has failed to appear before the Medical Board and instead he filed a writ petition before this Court, and in pursuance of the orders of this Court in W.P. No. 15706 of 2006, the respondents considered the representation filed by the petitioner and registered his name at Sl. No.4 for providing alternative employment.

On the last occasion, when the matter came up for hearing, learned Standing Counsel for the respondent-APSRTC submitted that there is no declaration by the Medical Board that the petitioner is medically unfit, and in spite of a direction given to the petitioner to appear before the Medical Board, he has not appeared, however, pursuant to the directions of this Court in W.P. No.15706 of 2006, dated 28.07.2006, the respondent-APSRTC considered the case of the petitioner and registered his name at Sl. No.4 in the Medically Unfit Drivers Register, whereas the case of the petitioner is that he was declared as medically unfit to the post of Driver. In the circumstances, this Court, by order dated 11.07.2007, directed the appearance of the officers concerned seeking explanation as to how they decided that the petitioner is medically unfit and kept him under medically unfit drivers category, when the petitioner failed to appear before the Medical Board.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

I have also heard respondent Nos.2 and 3, who appeared in person before this Court.

Learned Standing Counsel for the respondent-Corporation submits that since the petitioner, in pursuance of the directions of this Court, made a representation seeking alternative employment, the respondent-Corporation, after considering the said representation,

registered the name of the petitioner at Sl. No.4 for providing alternative employment. He further submits that the petitioner has not appeared before the Medical Board, in spite of the orders passed by the Depot Manager, Zaheerabad. However, he fairly admitted that these facts are not stated in the counter affidavit filed by the respondents.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to appear before the Medical Board on the date to be fixed by the respondent-Corporation, and upon examining the petitioner the Medical Board, shall submit its report, and based on the report, the respondent-Corporation, shall take appropriate action, and if the petitioner is found to be medically fit, they shall continue the petitioner in the post of Driver, and if he is declared unfit to hold the said post, he should be provided with alternative employment as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

At this juncture, it is represented by the learned counsel for the petitioner that the respondent-Corporation are not paying the salary to the petitioner from 09.05.2006 onwards. In that view of the matter, the respondent-Corporation are also directed to pay salary to the petitioner till he is provided with employment.

With the above directions, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 25.07.2007
Nsr